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UN Human Rights Committee---Summary Analysis of "Advance Unedited" Conclusions and Recommendations on the United States released on July 27, 2006

Introduction

- USG report was 7 years overdue
- HRC regrets absence of information from the main body of the USG report concerning individuals under its jurisdiction and outside its territory, USG assertion of non-applicability of ICCPR to intelligence operations (and thus refusal to address "certain serious allegations of violations" of the Covenant), and only limited information on ICCPR implementation at the state level.

Positive Aspects

- Supreme Court decision in Hamdan v. Rumsfeld (2006) establishing applicability of common article three of the Geneva Convention.
- Supreme Court decision in Roper v. Simmons (2005) outlawing capital punishment for minors below age of 18 when they committed their crime.
- National Detention Standards in 2000 establishing minimum standards for detention facilities holding DHS detainees.
- Supreme Court decision in Atkins v. Virginia (2002) holding that execution of the mentally retarded is cruel and unusual punishment.
- Supreme Court decision in Lawrence v. Texas (2003) declaring legislation criminalizing homosexual relations unconstitutional.

Areas of Concern (Remedial Recommendations for each are included in the Report)

- USG's restrictive interpretation of its obligations contrary to ICJ and/or Committee opinions (i.e., inapplicable during wartime and to individuals under its jurisdiction but outside U.S. territory)
- USG's failure to consider fully its obligation to respect and ensure ICCPR rights
- Overbroad definitions of terrorism under domestic law.
- Secret detention
- The use of certain interrogation techniques (i.e., prolonged stress, isolation, dietary adjustments, hooding, cold and heat, etc.) with no punishments or USG admission of ICCPR violations
- Shortcomings in the use of fair, impartial and independent means to investigate alleged torture and abuse cases of detainees.
- Inability of detainees in Gitmo to seek review of their condition and/or treatment.
- Detainees being sent back to their own countries despite risk of torture or other dehumanizing treatment.
- No USG response on statutory barring from asylum of those who applied "material support" to a terrorist organization, even under duress.
- Combatant Status Review Tribunals (CSRTs) and Administrative Review Boards (ARBs) don't offer adequate safeguards for due process.

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- Manipulation of immigration laws so as to detain persons suspected of terrorism.
- Hamden v. Rumsfeld Supreme Court decision has not been implemented.
- Elements of the Patriot Act that violate the Covenant in terms of privacy and search and seizure, as well as NSA activities without independent oversight.
- Of homeless people, 50% are African American versus 12% of rest of population
- De facto racial segregation in public school districts.
- Racial profiling by law enforcement authorities, especially at state level
- Violent crime and employment discrimination on the basis of sexual orientation.
- Discrimination against African-Americans in Hurricane Katrina relief
- Insufficient information on 9 million undocumented aliens and increased militarization on Mexican border.
- Sexual discrimination are too limited in scope and implementation.
- No USG steps to reduce the number of death penalty offenses and disproportionate application against minorities and low income groups.
- Police brutality and excessive use of force.
- Loose rules for obtaining consent for medical and scientific experimentation
- Conditions in maximum-security prisons.
- Allowing male officers into women's prison quarters without escort, and shackling of prisoners during childbirth
- Child offenders (under 18) receiving sentences of life without parole.
- Not restoring full voting rights to citizens who have successfully completed prison sentences and parole terms.
- Lack of voting representation for the citizens of Washington, DC.
- No implementation of previous Committee recommendations on indigenous rights.

Future Actions

- Next Periodic USG Report due: August 1, 2010
- Follow-up Report due (on Gitmo, GWOT, detention, Katrina issues): August 1, 2007

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